



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

1595 Wynkoop Street  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

Ref: 8P-AR

SEP 10 2014

Mr. Jeremy Nichols  
Climate and Energy Program Director  
WildEarth Guardians  
1536 Wynkoop, Suite 301  
Denver, Colorado 80202

RE: FOIA Request EPA-R8-2012-000800, dated March 6, 2012,  
Regarding North Dakota Regional Haze

Dear Mr. Nichols:

The above-referenced Freedom of Information Act (FOIA) request seeks "[a]ny and all records related to the March 1, 2012 final rule signed by Environmental Protection Agency Administrator Lisa Jackson entitled, 'Approval and Promulgation of Implementation Plans; North Dakota; Regional Haze State Implementation Plan; Federal Implementation Plan for Interstate Transport of Pollution Affecting Visibility and Regional Haze.'" The EPA has been working on making final determinations regarding confidentiality claims related to certain records that were withheld in our September 6, 2012 response to your FOIA request. These records were initially withheld under 5 U.S.C. 552(b)(4). In accordance with EPA regulations at 40 C.F.R. 2.204(d)(1)(i), we afforded the third parties an opportunity to substantiate their confidentiality claims. After careful review, we have now completed our final determinations as to whether those records contain confidential business information (CBI). As to some documents, we have determined that CBI claims have been waived or have expired. As to other documents, we have determined that CBI material can be redacted and the remainder released. These documents and redacted documents are being provided to you on the enclosed disk. This is in addition to the documents we provided to you with our September 6, 2012, January 30, 2014 and June 2, 2014 letters.

We have determined that the material redacted from the documents you have received, and the remaining records previously withheld for potential confidentiality concerns, do contain trade secrets or commercial or financial information, which is exempt from disclosure under 5 U.S.C. 552(b)(4). Pursuant to 40 C.F.R. 2.204(d)(1), your request for these records and parts of records is being denied. The EPA Region 8 Office of Regional Counsel issued the final confidentiality determinations.

The attached table contains a categorical description of withholdings and a volume estimate. This is our final response to your FOIA request.

Under the FOIA, you have the right to appeal this determination to the National Freedom of Information Office, U.S. EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, D.C. 20460 (U.S. Postal Service Only), email: [FOIA\\_HQ@epa.gov](mailto:FOIA_HQ@epa.gov). Only items mailed through the

United States Postal Service may be delivered to 1200 Pennsylvania Avenue, N.W. If you are submitting your appeal via hand delivery, courier service or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, D.C. 20004. Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30 calendar day limit. The appeal letter should include the FOIA number listed above. For quickest possible handling, the appeal letter and its envelope should be marked "Freedom of Information Act Appeal."

If you have any questions concerning the enclosed information, please contact Everett Volk at (303) 312-7290.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Robert Ward", with a large, sweeping flourish extending from the end of the signature.

W. Robert Ward  
Regional Counsel

Enclosures: Categorical Description of Withholdings and Releases  
One CD Containing Releasable Information

**Description of Withholdings and Releases with Volume Estimate**  
**FOIA Exemption 5 U.S.C. § 552(b)(4) - Confidential Business Information<sup>1</sup>**

<b>Documents Originally Withheld in 2012 under Exemption 4</b>		
<b>Company Document Owners</b>	<b>No. of Documents<sup>2</sup></b>	<b>Description</b>
Alstom Power Babcock Power Burns & McDonnell CERAM Environmental Haldor Topsoe Johnson Matthey Catalysts Sargent & Lundy URS Corp.	566	Vendor quotes, responses to CAA 114 information requests, and other records that have been claimed as or may contain confidential business information.
<b>Documents Subsequently Released in Three Phases in 2014</b>		
<b>Company Document Owners</b>	<b>No. of Documents</b>	<b>Description</b>
All 8 companies	281	January 30, 2014 release: Redacted vendor quotes, and records for which confidentiality claims were waived.
Babcock Power Burns & McDonnell Sargent & Lundy	60	June 2, 2014 release: Records for which confidentiality claims were waived.
Alstom Power Babcock Power Burns & McDonnell CERAM Environmental	49	September 8, 2014 release: Redacted records for which the EPA made confidentiality determinations.
<b>Final Documents Withheld in Full in 2014 under Exemption 4</b>		
<b>Company Document Owners</b>	<b>No. of Documents</b>	<b>Description</b>
All 8 companies	183	Records for which the EPA made confidentiality determinations including vendor quotes, responses to CAA 114 information requests, and other records that contain confidential business information.

<sup>1</sup> This table describes withholdings in addition to those described in a similar table provided to WildEarth Guardians with the EPA's September 6, 2012 letter.

<sup>2</sup> The total volume of records with confidential claims we collected amounts to approximately 315 MB of data in pdf format. The total volume of records with confidential claims which we released amounts to approximately 308 MB of data in pdf format. Some documents were partially withheld with redacted versions being released so are double counted in the table; the document counts along with the file size information provided are intended to convey a general idea of the volume of material we are withholding.

